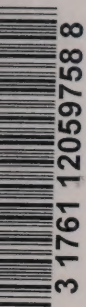


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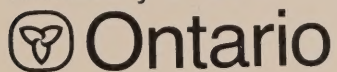
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# Occupational Health and Safety Reform 1989

Ministry of Labour



Gregory Sorbara, Minister





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Toronto, Ontario  
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## MEMORANDUM

FROM: Gregory Sorbara  
Minister of Labour

RE: Occupational Health and Safety Reform

The prevention of workplace injury and illness, and the protection of workplace health and safety, are of primary interest to the people of Ontario and to the Government of Ontario.

As Minister of Labour, I have recently had the privilege of introducing in the Legislative Assembly a wide-ranging set of proposals to reform, update and increase the effectiveness of the occupational health and safety system in our province.

Taken together, the proposals provide employees and employers with greater joint responsibility for health and safety and greater authority to reduce workplace risks through education, training, certification and accreditation.

The material in this booklet provides detailed background on the government's proposals. Additional information, including a copy of the legislative language, is available from the communications branch of the Ministry of Labour.

I would be most interested to hear your views on this initiative. I also look forward to the Assembly's debate of it.

Thank you for your interest.



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C O N T E N T S

NEWS RELEASE

NEW DIRECTIONS IN WORKPLACE HEALTH AND SAFETY  
IN ONTARIO: A BACKGROUND PAPER

OCCUPATIONAL HEALTH AND SAFETY REFORM, 1989  
QUESTIONS AND ANSWERS

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L'Information contenue dans ce document est également disponible en français. Pour obtenir une copie, communiquer avec:

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Ministère du Travail de l'Ontario  
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# NEWS RELEASE

400 University Avenue

Toronto M7A 1T7

(416) 965-7941

Release No.: 89-03

Date: January 24, 1989

Contact: S. Grenon

## LABOUR MINISTER SORBARA ANNOUNCES MAJOR REFORM OF WORKPLACE HEALTH AND SAFETY LAW

TORONTO --- Ontario Labour Minister Gregory Sorbara today introduced a package of far-reaching proposals to overhaul the province-wide system for protecting the on-the-job health and safety of Ontario workers.

"Workplaces in which illness and injury are prevented and health and safety are protected contribute to the effectiveness and productivity of Ontario enterprise," he said. "They are basic to an equitable society and a strong economy."

Mr. Sorbara's proposals to amend the Occupational Health and Safety Act, tabled in the Legislative Assembly this afternoon, are designed to:

- \* Give workers and employers greater joint responsibility for health and safety and greater authority to reduce workplace risks.
- \* Provide labour and management with the education and training they need to exercise their authority effectively.
- \* Provide for stricter enforcement of the Act by workplace parties and the Ministry of Labour in a number of ways, including raising twenty-fold, to \$500,000, the maximum fine for corporations who contravene the law.

"These amendments constitute a bold, new approach to reducing the risks of workplace accident and illness," the Labour Minister said. "They have been developed following consultation with representatives of both labour and management. They are driven by a belief that the people who must live by our workplace health and safety rules must play an active role in shaping them and the system they create."



The amendments:

- \* Call for the creation of the new joint labour-management Workplace Health and Safety Agency to take the lead role in educating and training workers and employers in effective health and safety practices.
- \* Greatly expand the network of workplace health and safety committees in Ontario and give the committees, consisting of both labour and management, greater responsibility for inspecting workplaces and fuller access to information about workplace risks.
- \* Expand a worker's right to refuse work to include a concern that a work activity, such as lifting a heavy object, is likely to endanger.

Mr. Sorbara said the expanded right-to-refuse provisions would also ensure a worker's right to 100 per cent of the wages and benefits that had accrued during the first stage of the investigation of the refusal.

"The single, unwavering purpose of these amendments," the Minister said, "is to fulfill a fundamental obligation of this government to make workplaces as safe as humanly possible."

In undertaking to meet that obligation, he said, the amendments will provide for a major expansion of the joint health and safety committee system.

Joint health and safety committees will be required on construction projects with a work force of 20 or more persons, where the project is to run for at least three months. A worker health and safety representative will be required on projects with five or more employees, but fewer than 20. Residential construction projects will be treated separately by regulations developed following consultation with labour and management.

The amendments will also provide for worker trades subcommittees on construction projects at which there are joint health and safety committees.

In addition, some 30,000 offices and retail outlets, currently exempt from the Act, will be obliged to establish joint health and safety committees.

All joint committees will have co-chairpersons -- one from labour and one from management. The minimum size of a committee at workplaces with 50 or more employees will rise to four persons.



An additional 50,000 workplaces with more than five workers, but fewer than 20, will be required to have worker health and safety representatives chosen by the employees.

Seasonal tourist operations will be exempted from a committee requirement but worker health and safety representation will be arranged for them following consultation with labour and management.

Employers will be required to provide training developed under the new Workplace Health and Safety Agency to joint health and safety committee members.

There will also be special training for committee members leading to certification. Each committee will have to have at least one certified labour member and one certified management member. Certified members will be empowered to order work stoppages if they find a provision of the Act or Regulations is being contravened; the contravention poses a danger or hazard to a worker, and the danger or hazard is such that any delay in controlling it will cause serious risk to a worker.

"This is a considerable power," Mr. Sorbara said. "Together with the many other provisions in this bill, it will contribute to a standard of health and safety of which people can be proud. The bill goes to some lengths to establish checks and balances on the exercise of it."

The Minister emphasized that effectiveness of both joint health and safety committees and worker representatives "will depend on their training and the information available to them."

Committee members or worker representatives will therefore have the power to obtain from the employer information about any tests of equipment, machines, or biological, chemical or physical agents at the workplace.

Employers will also be required to consult the committees and worker representatives about any such tests and ensure they are present when the test begins.

In addition:

- \* An employer will be obliged to respond in writing to any recommendations made by a joint committee or a worker representative within 30 days of receiving them. The reply will have to contain a timetable for implementation, or give the reasons for the employer's disagreement.



- \* Employers will be required to share with the committee or worker representative any information the employer has about potential hazards at the workplace or in similar or other industries.
- \* Directors and officers of a corporation will have a duty of care to safeguard the occupational health and safety of workers.
- \* Employers will have to maintain and provide a written health and safety policy.

"Our message is clear," Labour Minister Sorbara said. "All employers are going to have to meet the health and safety standards already exercised by many responsible corporations doing business in Ontario. Employers who operate exemplary health and safety programs will stand to benefit. The new agency will have the power to advise the Workers' Compensation Board (WCB) on the workplace health and safety performance of an employer and the WCB will have the capacity to take the recommendations into account when it determines the employer's WCB assessment."

The mandate of the proposed agency will be to develop and administer health and safety education; engage in research and consultative services and provide advice to the Minister of Labour.

It will be responsible for overseeing the operation of eight employer safety and accident prevention associations and two occupational health clinics. It will also assume responsibility for overseeing the funding of research and five occupational health and safety resource centres.

The agency will have 14 directors, composed of equal representation from labour and management, with one full-time co-chairperson from each group. An executive director will be appointed to handle the day-to-day administrative duties.

The agency will be funded by the WCB and the provincial treasury, both of which currently provide financing for programs that will become the agency's responsibility. Funding levels will not be increased as the programs are transferred to the agency.

The amendments to the Occupational Health and Safety Act announced by Labour Minister Sorbara today will also broaden the powers of Ministry of Labour inspectors, including ordering tests by experts.

Stop work orders issued by inspectors will remain in effect until withdrawn or cancelled following an inspection. Employers will be able to resume work only if the inspector is notified the problem has been corrected and a joint committee member or worker representative has confirmed that the order has been complied with.

Crown lawyers will be able to require that charges be heard by a provincial court judge instead of a justice of the peace.

In addition, the amendments will provide that architects and professional engineers are in contravention of the Act if they have given negligent advice or certified equipment or a project, as a result of which a worker was endangered.

The current requirement that workers participate in medical surveillance programs will be repealed.

"Mandatory participation is viewed as an unwarranted intrusion of a worker's privacy," the Minister said.







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**NEW DIRECTIONS**  
**IN WORKPLACE HEALTH AND SAFETY**  
**IN ONTARIO:**

**A BACKGROUND PAPER**

**JANUARY 24, 1989**







## MEMORANDUM

FROM: Gregory Sorbara  
Minister of Labour

DATE: January 24, 1989

RE: New Directions in Workplace Health  
and Safety in Ontario: A Background  
Paper

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This background paper outlines the government's proposals for change in the province's occupational health and safety system.

The current number and rate of workplace accidents and injuries in Ontario is unacceptable. So too, are the associated costs, both human and economic. If this situation is to be improved in a meaningful way, appropriate measures must be taken. These measures must aim at strengthening the joint responsibility and responsible participation of labour and management in the effective control of workplace risks.

This paper sets out the basic principles which will guide government action in the pursuit of an integrated and collaborative approach to the management of occupational health and safety.

More specifically, it is proposed that greater emphasis be placed on training, particularly of members of joint health and safety committees. This will include special training requirements for those members who receive certification.

Certified committee members will have added responsibilities for the control of workplace risks, including the right to stop work under specified circumstances. This right will operate within a set of rules and guidelines intended to ensure the right is used appropriately.

In order to provide a structure for this more integrated and collaborative approach, a labour-management Workplace Health and Safety Agency will be established. The Agency will be mandated to develop and administer health and safety education, to engage in research and consultative services, and to provide advice to the Minister of Labour.

This agency is the focal point of a new approach -- an approach which will strengthen the role of joint health and safety committees and extend their presence to more workplaces.

These proposals are a response to the need for improved occupational health and safety and for the meaningful participation of both labour and management in this endeavour.

A handwritten signature in dark ink, appearing to read 'G. Sorbara', with a long horizontal flourish extending to the right.

Gregory Sorbara  
Minister

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Note: This paper provides a general outline of the proposed amendments. For a precise statement of amendments readers are directed to the Bill.





## OBJECTIVE

The purpose of this paper is to set out a proposed approach to improving the safety and health of Ontario's workers. The paper outlines an approach to improved safety and health which places more authority and greater control over workplace risks in the hands of the workplace parties. And it links this greater authority to responsibility and training. The approach also offers incentives for employers who follow positive health and safety programs which produce a safer workplace.

## BASIC TENETS

The discussions and proposals contained in this Paper are based on a set of conclusions drawn from a series of consultations with business and labour leaders held to date, as well as from a number of principles which are central to Ministry of Labour policy and to the Occupational Health and Safety Act. These are:

- (i) *The health and safety of Ontario's workplaces must be improved.*
- (ii) *A genuine improvement can come only from the effective involvement of workers and employers.*
- (iii) *For this involvement to be meaningful, those in the workplace must be well trained and well informed on health and safety practices.*
- (iv) *Improved health and safety requires control of workplace risks by workers and employers. In turn, effective control requires that both workers and managers have appropriate rights and authorities.*
- (v) *These rights and authorities must be linked to appropriate capabilities and to assurance of responsible behaviour by both parties.*

- (vi) *To ensure adherence to standards and procedures which serve to minimize workplace risk, government must have the necessary tools to enforce the legislation and to apply sanctions for failure to meet obligations.*
- (vii) *Those employers with exemplary occupational health and safety programs and performance should be rewarded while those with poor performance should be more closely targeted for special scrutiny and sanctions.*
- (viii) *To provide a structure for this more integrated and collaborative approach to occupational health and safety and greater involvement of the workplace parties, a new agency will be established (The Workplace Health and Safety Agency).*

These principles flow from a view that worker health and safety is too important to be the subject of conflict in the workplace. This perspective guides Ministry of Labour efforts to improve occupational health and safety. Each of the above principles will be dealt with more fully in this paper, following an outline of the background and context of occupational health and safety in Ontario.

## **BACKGROUND**

The *Occupational Health and Safety Act* was proclaimed in 1979. The legislation provided that workers and employers share the responsibility of ensuring that the workplace environment is indeed healthy and safe.

The *Act* set out the rights, responsibilities and obligations of the workplace parties and the Government that were then deemed appropriate to achieve this objective. Key amongst these were the worker's rights to information, to participate in the identification and resolution of workplace hazards and to refuse dangerous work.



In 1987 this *Act* was amended by Bill 79 and by Bill 180 in 1988, to incorporate Worker and Community Right to Know provisions compatible with, but more far reaching than, the national Workplace Hazardous Materials Information System (WHMIS).

Apart from these modifications, which came into effect in October 1988, there has not been a substantive revision to the *Occupational Health and Safety Act* since its proclamation in 1979.

In the winter of 1986 a draft bill was tabled in the Legislature. In spring 1987, a set of amendments was introduced in the Legislature as Bill 106. These proposed amendments were directed at extending joint health and safety committees and worker representatives to many workplaces which are presently exempt, an expansion of the grounds for work refusal, as well as other related changes. Although the Bill died on the Order Paper, it provided a basis for consultations with senior business and labour leaders.

The consultations revealed two major facts. First, there was considerable discontent with the proposed changes. Labour expressed the view that the changes did not go far enough to protect the health and safety of workers; employers, on the other hand, expressed concern over the work refusal provisions and other related amendments.

The consultations also revealed broad agreement concerning the need for a better trained workforce if *participatory rights* are to be used effectively. *Participatory rights*, broadly speaking, are those which allow workers a degree of control over the level of risk in the workplace. This control is largely derived from the rights named above, that is, from the rights to information, to participate in the identification and resolution of workplace hazards and the right to refuse dangerous work.

With these facts as our background, the Ministry's proposed new approach to occupational health and safety is reviewed in the context of the basic principles set out in the opening pages.

## I. NEED FOR IMPROVED OCCUPATIONAL HEALTH AND SAFETY

In 1987, over seven million work days were lost due to occupational accidents and illnesses. Each of these lost days represents a loss of productivity and needless human suffering. Many of the incidents generating lost time resulted in compensation payments – a total of \$1.45 billion in WCB payments in 1987. Moreover, there were more than 300 work related fatalities in Ontario during the year.

These injuries and the resulting costs – both economic and human – are largely the result of inadequate control over the risks present in the workplace. These are the result of industrial machinery, toxic chemicals and chemical compounds, repetitive procedures producing strain, and numerous other aspects of many jobs which account for the very significant incidence of work related injury and illness.

The control of these risks represents a major challenge. It is a task which clearly outweighs the capacity of the existing number of Ministry inspectors. At present, the inspectors carry out some 69,000 inspections and investigate 3,500 complaints annually. But with 179,000 work-places in Ontario, the control of workplace hazards cannot be achieved by inspectors alone – even if the inspectorate were double the current size. The effective control of workplace risks is something which can only be resolved within the workplace itself through the combined efforts of labour and management.

## II. IMPROVED PARTICIPATION

Expanded and more effective participation of the workplace partners is a key requirement for the government's proposed approach to improving workplace health and safety. The involvement of individual workers revolves around these basic rights:

- the right to know what hazards exist in the workplace
- the right to participate in decisions which involve risks that affect the worker. This is largely achieved via the

workplace joint health and safety committee (or worker health and safety representative)

- the right to refuse unsafe work.

In addition to amendments which strengthen these rights of individuals (see Annex II), the focus of change here is on improving the role of joint health and safety committees.

Ontario's occupational health and safety system, like most others in Canada, utilizes joint health and safety committees and worker representatives to ensure that all workplace parties have a role established by statute with respect to achieving and maintaining a safe and healthy work environment.

The *Act* currently provides that *industrial and mining establishments* with 20 or more workers shall have a Joint Health and Safety Committee (JHSC) consisting of a minimum of 2 persons, one of who will be a worker representative. The Act defines an industrial establishment to mean "an office building, factory, arena, shop or office, and any land, buildings and structures appertaining thereto". Construction projects employing a similar size work force are required to have a minimum of one worker representative selected by the workers themselves. (For the definition of construction see ANNEX 1).

While JHSCs have made strong contributions to workplace health and safety, a number of workplaces such as offices, retail shops and non-kitchen hospitality services, are not required to have either a committee or a worker representative. Where representation does exist, insufficient access to information and employers' lack of response to worker or joint committee representations have, in some cases, limited the effectiveness of worker participation.

If JHSCs are to exercise a more meaningful role in the workplace and have a greater impact throughout Ontario, more categories of workplaces are required to establish JHSCs and these committees, once established, must have access to information which bears on health and safety matters.



To this end, amendments are included to extend the obligation to establish committees to all non-agricultural sectors, to require a JHSC in workplaces with over 20 workers, to require worker representatives in smaller workplaces (5 to 20 employees), to enhance the representativeness of committees by requiring more members in sizeable workplaces, to provide for the selection of co-chairs, and to ensure preparation time for committee meetings. In addition, employers will be required to respond in writing to committee recommendations within 30 days.

For the construction sector, this will mean the introduction of JHSCs to projects of 3 months duration or more and employing more than 20 workers. In addition, there will be a sub-committee representing each trade involved, while that trade is working on the project. For a complete outline of these proposed amendments see ANNEX II

These reforms will increase the number of committees to almost 50,000 and will enhance the advisory role of the JHSCs. There is need, however, for further reform which will provide the committees' authority to actually rectify health and safety problems in the workplace. This combination of measures will ensure that there exists a shared responsibility between labour and management over workplace risk.

Clearly, greater control of workplace risk can be achieved by the strategic utilization of the workplace parties. Because workers and managers are "on-site" they are familiar with their workplaces and are thus better able to identify emerging and existing dangers and to deal with them. The objective, is to have workplace parties collaborate in their efforts to reduce risk in the workplace.

### III. EDUCATION AND TRAINING

An indispensable factor in the creation of safer working environments is the effective delivery of high quality health and safety training. Neither workers nor management will be in a position to make responsible use of their respective rights if they lack the training required to recognize workplace hazards and to deal with them effectively.



At present, a good deal of responsibility for health and safety training rests with nine safety associations and three health and safety programs\* (which are in the process of becoming safety associations), the Occupational Health and Safety Education Authority (OHSEA) and the Workers' Health and Safety Centre.

Each of these organizations has its own unique characteristics and safety concerns and it has been the usual practice for each association to develop its own materials and programs. The existing programs of the associations do not cover all sectors of the economy. For instance, there are gaps in coverage in both the retail and service sectors.

The Government is proposing to establish a workplace Health and Safety Agency (WHSA) to bring these organizations under joint labour-management direction as part of the new focus on increasing the role of the workplace parties. It is imperative that more and better training be provided to members of JHSCs so that these committees can be an effective focus for the control of risks.

In order to raise the level of knowledge about health and safety on the JHSCs, at least one labour and one management member of each committee will be required to attain a designated level of knowledge and competence which will lead to "certification" of the member. Along with certification will go additional responsibility and authority. The targeting of JHSCs, which are soon to number 50,000, by educating their members and providing them with an increased role, will make a significant impact on health and safety in the workplace. This will be a major undertaking involving quality training for as many as 200,000 people.

#### IV. EFFECTIVE AUTHORITY

The effectiveness of workers' and employers' involvement in health and safety depends a good deal on the level of training and knowledge which

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\*1. *College, University and School Safety Council of Ontario*

2. *Municipal Health and Safety Program*

3. *Tourism and Hospitality Industry Health and Safety Education Program.*

they can bring to the task. They also need a set of rights and authority that permit this knowledge to be used effectively.

It is proposed therefore that JHSC members have the authority to undertake regular workplace inspections, to bring dangerous and potentially dangerous situations to the attention of management, and in certain specific circumstances, to stop work which is likely to harm a worker's health or safety.

Some of these rights will apply to all JHSC members. Others, like the right to stop work will be granted only to members who are certified and can be used only in very specific circumstances. Certification will require Committee members to participate in a special series of courses provided or authorized by the Agency, which will focus on all facets of occupational health and safety. The process of certification will also require that Committee members be well aware of their rights and sensitive to the responsible use of them.

## V. RESPONSIBLE USE OF AUTHORITY

The new authority will be provided for very limited circumstances and will be balanced by a set of procedures framed in such a way as to ensure its responsible use. More specifically, a worker who is a certified member of a JHSC may order a work stoppage only in the event that:

- (a) a provision of the *Occupational Health and Safety Act* or the Regulations is being contravened; and
- (b) the contravention poses a danger or a hazard to a worker; and
- (c) the danger or hazard is such that any delay in controlling it will cause continuing serious risk to a worker.

If the employer agrees that such a danger exists, remedial action will be taken. Should there be disagreement over the work stoppage, the employer will have recourse to a Ministry of Labour inspector, who will be called in to inspect the situation and make a determination.

In cases where Ministry of Labour inspectors agree that there exists such a danger, they will direct the employer to rectify the situation. Where employers disagree with an inspector's decision they may appeal that decision to the Director of Appeals at the Ministry of Labour (s. 32 the *Occupational Health and Safety Act*). The Director's decision is then open to appeal through judicial review. Alternately, in cases where Ministry inspectors disagree that the conditions allowing for a work stoppage exist, work will recommence. Where a work stoppage is felt to be improper, the employer has the option of asking for a review by the WHSA. If the review finds the work stop to have been the result of negligence or bad faith, the law will require decertification of the individual who made the direction.

Where, in the course of inspections, a hazard is identified and it is not such that a delay in controlling it will cause serious risk, the situation will be brought to the attention of management. It is anticipated that in most cases the employer will agree to rectify the situation. Where management does not agree, the JHSC will be in a position to make an official recommendation to the employer who must then respond in writing within 30 days.

### **Right to Refuse:**

The authority to stop work in situations described above is distinct from, and in addition to, the existing "right to refuse" unsafe work.

Currently the right to refuse is related to any equipment, machine or device the worker is to use or to the physical condition of the workplace itself. The right does not extend to a "work activity" such as the lifting of a heavy object. In order to address this situation the *Act* will be amended to broaden the definition of grounds upon which a worker may refuse to work. The broader definition will include as grounds for refusal any work activity that the worker has reason to believe may physically endanger him/her or a fellow worker.

This will empower workers to refuse work related dangers to their health or safety. Because a large number of workplace injuries result from



various work processes and activities (e.g. lifting), this amendment will help further reduce workplace injuries.

## VI. COMPLIANCE AND ENFORCEMENT

The thrust of this new approach to occupational health and safety is clearly to enable and empower the workplace parties to exercise a significant role in controlling workplace risks. Improved training and an increased role for JHSCs are a large part of this initiative.

There must also be assurances that the parties will act responsibly and comply with obligations. And government must have the means to effectively enforce compliance with health and safety standards and to apply penalties where there is failure to comply. As a result, there are also amendments to impose a duty of care on officers/management of a company to safeguard health and safety, to increase the power of inspectors, and to increase to \$500,000 the maximum fine for a corporation convicted of an offence under the Act.

A full listing of these amendments is provided in ANNEX II.

## VII. INCENTIVES

The Agency, in conjunction with the WCB and the Ministry, will have a significant role in providing incentives to employers to improve their health and safety performance. It will accredit those employers who are able to demonstrate superior competence in occupational health and safety practices and they may qualify for a number of benefits. The Agency will also advise the WCB regarding employers who fail to take adequate precautions to protect workers.

For example, companies with progressive health and safety training programs, JHSCs with certified members and good safety records could qualify for reduced inspections and for awards attesting to their progressive approach to health and safety. In addition, the



recommendations of the Agency will be taken into account by the WCB when establishing assessments for these superior performers. Reduced inspections for employers which perform well would have the added advantage of freeing Ministry inspectors to more fully concentrate on companies which have failed to reduce levels of job risk. In addition, poor performers may have their assessments revised by WCB.

## **VIII. WORKPLACE HEALTH AND SAFETY AGENCY**

Ontario's occupational health and safety system has been built upon the internal responsibility system or shared responsibility of management and labour to ensure a safe and healthy workplace environment. However, there is not an overall structure to provide for joint involvement in the design or operation of the proposed system.

At present, the general responsibility for health and safety standards and their enforcement rests with the Ministry of Labour. The Workers' Compensation Board is responsible for disability compensation and medical and vocational rehabilitation. And, as previously noted, delivery of worker health and safety education is primarily left to the employer safety associations, OHSEA and the workers' Health and Safety Centre, all of which are funded by the WCB.

The nine provincial sector safety associations (and three health and safety programs) fall under the mandate of the Occupational Health and Safety Education Authority of the Workers' Compensation Board. These associations are:

- Construction Safety Association of Ontario
- Electrical Utilities Safety Association
- Farm Safety Association
- Forest Products Accident Prevention Association
- Health Care Occupational Health & Safety Association
- Industrial Accident Prevention Association
- Mines Accident Prevention Safety Association

Ontario Pulp & Paper Makers' Health & Safety  
Association

Transportation Safety Association

The associations respond to the specific health and safety training and educational needs of workplaces within their respective jurisdictions. Their focus is prevention through education. They are responsible for the development of industry-specific health and safety education materials and programs that are disseminated at the managerial, supervisory, and worker levels.

The Associations' programs and budgets are reviewed annually by the OHSEA, which recommends to WCB a level of funding, for the associations as well as helping them to develop province-wide health and safety education policy objectives. The Workers' Health and Safety Centre is operated by labour and it too is involved in the development of health and safety training materials and the delivery of programs.

The safety associations serve a vital purpose in preventing accidents and promoting health and safety in the workplace. However, there are limited mechanisms for the development of uniform health and safety training or to carry out the proposed certification procedures.

Some Canadian and foreign jurisdictions have created public agencies responsible for occupational health and safety which are largely or entirely directed by management and labour representatives rather than public employees.

In British Columbia, public responsibility for the entire system has been vested with B.C.'s WCB which includes labour/management representation on its Board of Directors. New Brunswick has established a commission representative of labour, management and the general public which is responsible for the operation of the occupational health and safety system, with the New Brunswick WCB maintaining responsibility for the operation of the compensation system. The New Brunswick Commission has been well received by management and labour in that province and continues to enjoy strong support from both parties. In Quebec, a

management and labour commission responsible for both health and safety and the workers' compensation system has been established.

The reforms propose to amend the *Act* to establish an Ontario Workplace Health and Safety Agency that will foster greater cooperation between labour and management in matters relating to the future development and administration of the province's health and safety system. At its inception the Agency will, among other things, help to coordinate the efforts of the 8\* sector safety associations, the three programs, the Occupational Health and Safety Education Authority, the Advisory Council on Occupational Health and Occupational Safety and the Worker's Health and Safety Centre.

**Mandate:**

The *Occupational Health and Safety Act* is to be amended to establish a Workplace Health and Safety Agency comprised of management and labour representatives appointed by the Lieutenant Governor in Council and reporting to the Minister of Labour. The central element of the Agency's mandate is to take on responsibility for developing training programs and for delivering the training needed to support the approach. Comprehensively, the Agency will be mandated to:

- (a) develop requirements for the designation of members of committees as certified members;
- (b) administer the certification process of members of committees including the training requirements;
- (c) certify and decertify members of committees according to standards developed by the Agency;
- (d) develop and deliver educational and training programs, purchase programs from other institutions and contribute to the development of safety programs by other institutions;

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\* *For the present time the Farm Safety Association will continue to maintain its link to the Workers' Compensation Board.*

- (e) promote public awareness of occupational health and safety;
- (f) provide funding for occupational health and safety research;
- (g) develop requirements for the accreditation of employers who operate successful health and safety programs and policies;
- (h) accredit and revoke the accreditation of employers according to the standards developed by the Agency;
- (i) advise the Minister on matters related to occupational health and safety which may be brought to its attention or be referred to it;
- (j) operate or oversee the operation of such occupational health and safety medical clinics as may be prescribed including the power to alter the rules of operation and change the organization of any clinic so prescribed;
- (k) administer or oversee the operation of such safety and accident prevention associations as may be prescribed including the power to alter the rules of operation and change the organization of any association so prescribed;
- (l) operate or oversee the operation of occupational health and training centres;
- (m) make grants or provide funds for any of the purposes set out in (j), (k), and (l);
- (n) advise the Workers' Compensation Board if accredited employers operate in such a manner as to reduce the hazard to workers in the workplace;
- (o) advise the Workers' Compensation Board if employers fail to take sufficient precaution for the prevention of hazards to workers.



A number of benefits are expected to be realized by the Agency. Foremost among these is the fact that it will foster a collaborative management of the training process, a joint control of certification, and a single centre for promoting and supporting the responsible control of workplace risks.

The increasing participation of employees in decisions regarding occupational health and safety is to be reflected in the organizational structure of the Agency. So too will the fact that rights and powers are to be accompanied by an assurance of responsible behaviour on the part of both parties. That is, the Agency will provide a forum wherein both labour and management can pursue their mutually held objective of realizing a safe workplace, in an atmosphere of constructive cooperation rather than one of confrontation.

## Organizational Overview

Status	<p>Schedule III Agency:</p> <p>At arm's length from government; crown employees not public servants</p>
Structure	<p>The Workplace Health and Safety Agency is to be under the direction of a fourteen member Board of Directors appointed by the Lieutenant Governor in Council.</p> <p>The Board of Directors will consist of:</p> <ul style="list-style-type: none"><li>- two full-time Directors, one of whom will represent management and the other labour. These Directors will jointly act as co-chairpersons.</li><li>- Twelve part-time Directors with six representing labour and six representing management.</li></ul>
Terms of Office	<p>The term of office for Directors of the Agency will be determined by the Lieutenant Governor in Council.</p>
Vacancies	<p>The Lieutenant Governor in Council will fill any vacancy that occurs among the members of the Board.</p>
Executive Director	<p>The Lieutenant Governor in Council will appoint an Executive Director who will be a non-voting member of the Agency's Board of Directors and who will:</p> <ul style="list-style-type: none"><li>- carry out the directions of the Directors of the Agency; and</li><li>- be responsible for the day-to-day operation of the Agency.</li></ul>

Staff	In accordance with policies approved by the Directors of the Agency, and subject to guidelines established by the Management Board of Cabinet and subject to the <i>Crown Employees Collective Bargaining Act</i> , the Chairpersons may appoint employees and consultants.
Annual Report	The Agency will file with the Minister of Labour, by the first day of June in each year, an annual report dealing with the affairs of the Agency.

## CONCLUSION: A NEW DIRECTION

The amendments outlined here provide an effective means for improving workplace health and safety by creating a more significant role for those in the workplace. These amendments extend the role of joint health and safety committees, elevate the level of training for committee members, and increase the authority of those with special training. A new labour-management agency will be a centrepiece of this comprehensive approach.

The changes outlined here can greatly improve the health and safety of workers and make Ontario a leader in this field. Healthy and safe workplaces which are characterized by a collaborative and informed approach to solving health and safety issues will be more effective and more productive. In this way, these initiatives will help Ontario enterprises to meet the challenges of international competition.

## ANNEX I

### DEFINITIONS – ‘Construction’ and ‘Project’

Construction defined:

Section 3.                    “construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a project.

Project defined:

“project” means a construction project, whether public or private, including,

- i.        the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking lot, cofferdam, conduit, sewer, watermain, service connection, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof,
- ii.       mining development,
- iii.      the moving of a building or structure, and
- iv.      any work or undertaking, or any lands or appurtenances used in connection with construction.



## ANNEX II

### SUMMARY OF PROPOSED AMENDMENTS

#### 2. IMPROVED PARTICIPATION (JHSCs)

- A. ● Require an employer to provide all workplace monitoring reports to the committee and to advise the workers that the results and the report are available on request.
- Require an employer to notify the Ministry where he/she has been advised that an employee has filed a claim with the Workers' Compensation Board related to a potential occupational illness.
- Replace the requirement that calls for employers to automatically file copies of their floor plans with fire departments and the Ministry with a requirement to keep a copy of the floor plan of the location of hazardous materials in an identified location on the premises that is accessible to workers.
- Require that employers only be required to provide copies of Material Safety Data Sheets and hazardous material inventories with medical health officers, fire departments and the Ministry upon request or as prescribed.
- Enable the Minister to prescribe the accident situations for which employers are required to notify health and safety committees and the Ministry.
- B. ● Extend joint health and safety committees by deleting the current exemptions from the requirement to establish joint health and safety committees (eg. offices, retail, etc.) from the *Act* but enable the Minister to exempt workers or workplaces by class thereof, via regulation.

- There will continue to be a small business exception, viz: amend the *Act* so that in workplaces where more than 5 persons and fewer than 20 persons are regularly employed, the workers shall be required to select from among their number in the workplace a worker health and safety representative.
- Enable the Lieutenant Governor to prescribe the selection of worker representatives where joint committees would otherwise be required in seasonal tourist operations.
- Committee membership shall be from the workplace but where no management personnel are employed in the workplace, the employer may assign a management representative from elsewhere.
- The minimum committee size of 2 persons shall rise to 4 persons where 50 or more persons are regularly employed, with the regulatory authority to prescribe larger committees where the workforce is of a greater number.
- The committee be co-chaired by members selected by the respective committee representatives of workers and management.
- Committees to determine the amount of paid preparation time required with a minimum guarantee of 1 hour per committee meeting.
- Require constructors to establish joint health and safety committees on construction projects where the work force will be regularly 20 or more persons and where the project will be of 3 months duration or longer.
- Enable workers on construction projects that are required to have a joint health and safety committee to establish a workers' sub-committee representative of each trade while members of that trade are working on the project.

- Joint health and safety committees and worker representatives to be acquainted with testing strategies, consulted with and be present at the commencement of air monitoring or other industrial hygiene investigations.
  - Employers to respond in writing to written committee recommendations within 30 days including a timetable for implementation where the employer agrees and reasons where he/she disagrees.
- C.
- The definition of grounds upon which a worker may refuse to work is broadened to include any work activity that the worker has reason to believe may endanger him/her or his/her fellow workers.
  - An employee shall be entitled to 100% of the wages and benefits the employee would have otherwise received, during the first stage of a work refusal.

### 3. EDUCATION AND TRAINING

- Permit the regulation of health and safety training programs for workers, supervisors and joint health and safety committee members.
- Certified members are to meet training standards established by the Workplace Health and Safety Agency.

### 4. EFFECTIVE AUTHORITY

- Require that a joint health and safety committee worker representative inspect the workplace or a part thereof at least once a month, unless otherwise ordered or prescribed, so long as the entire workplace is inspected no less than once per annum.
- The worker representative inspecting the workplace or a part thereof to inform the committee if hazardous or dangerous situations exist.

- The certified member on the committee may require an employer to stop work where the following conditions apply: there is a contravention of the *Act* or regulation which presents a danger or hazard to a worker and any delay would cause serious risk to the worker or to fellow workers.

## 5. RESPONSIBLE USE

- Where the employer, after investigation, remedies the hazardous or dangerous situation, the stop work order will be cancelled by the certified member.
- Where the employer, after investigation, disagrees with the validity of a work stoppage by a certified member, either the employer or the certified member may notify an inspector.
- The inspector, after investigation, may validate, modify or cancel the stop work direction.
- Where the employer has reason to believe the certified member is using the authority irresponsibly, the employer may file a complaint with the Workplace Health and Safety Agency.
- The Agency will hold a hearing and has authority to decertify the certified member if he or she is found to have acted negligently or in bad faith.
- The Agency has authority to make an appropriate order if a direction to stop work was given improperly or if investigation of a complaint was carried out improperly, negligently or in bad faith.



## 6. ASSURE COMPLIANCE VIA ENFORCEMENT

- Impose a duty on senior management to establish and maintain a written occupational health and safety policy and to develop and maintain a program.
- Require employers to file their compliance plans with the Ministry of Labour.
- Include non-agricultural self-employed persons as a separate category of individuals to whom certain provisions of the *Act* and regulations will apply.
- Place a duty upon owners of premises to advise constructors and employers of substances likely to present a hazard during the work undertaken, of which the owner is aware or reasonably ought to be aware, before tenders are let or work is arranged. Where such notice is not given, the owner shall be liable for any additional costs relating to the presence of the substance.
- Inspectors to have the power to require employers:
  - to have equipment tested by a professional engineer;
  - to take samples of potentially toxic substances to which workers may be exposed;
  - to provide a report of the potential hazard including monitoring results of biological, chemical or physical agents or combination of such agents;
  - to furnish accurate records to the workers and inspectors including the chemical names and structure of the substance where necessary.

- Empower inspectors to seize documents or articles and impound them for use as evidence; and to take a machine out of service pending testing to determine if it is in contravention of the *Act*.
- Require the employer and the worker representative who accompanied the inspector or his/her alternative to submit to the Ministry a notice of compliance with an order not later than 3 days from the date of compliance, but that notwithstanding such notice, a decision by an inspector that the order has not been complied with, shall be paramount.
- Inspectors to be empowered to resolve disputes where the employer, worker representative or a worker disagree that an order has been complied with.
- Entitle the Crown to elect that charges brought under the *Act* be tried before a Provincial Court Judge instead of a Justice of the Peace and that the election by the Crown shall be by the Attorney General or designate.
- Increase the maximum fine that can be levied against a corporation on conviction for an offence under the *Act* to \$500,000.
- Strengthen protection for employees who testify in court proceedings under this *Act*.
- Amend Section 36 to extend protection to include Ministry advisory personnel.
- Enable the Ministry to prosecute engineers or other persons offering professional services for violations under the *Act*.
- Enable the Ministry to enter as evidence in a trial documents which purport to certify the results of tests on any physical substance.

## 7. INCENTIVES, DISINCENTIVES

- Impose a duty of care on officers and directors of a corporation to safeguard the occupational health and safety of workers.
- The Workplace Health and Safety Agency to have authority to accredit company health and safety activities (eg., committees having certified members, successful health and safety programs and good safety records) as a result of which benefits may be provided. These could include reduced Ministry inspection schedules and reduced WCB assessments. For employers who fail to take adequate prevention precautions, the Agency will have the authority to recommend to the WCB that assessments be raised. In addition, these companies could also be targetted for increased inspections.

## 8. AGENCY

- Establish a Workplace Health and Safety Agency comprised of equal numbers of management and labour representatives, appointed by government which reports to the Minister of Labour. The Agency will have as a mandate:
  - setting requirements for the certification of members of joint health and safety committees and representatives;
  - developing and delivering the required training programs;
  - developing and delivering education and promotion programs;
  - providing consultative services;
  - pursuing research priorities to further its mandate;
  - certifying health and safety committee members who will be empowered to stop work which is likely to endanger

workers, subject to limitations and a review and sanctions process;

- accrediting company health and safety activities (e.g., committees having certified members, successful health and safety records) as a result of which benefits may be provided. These could include reduced Ministry inspection schedules. Arrangements could also be made with the WCB to reduce assessment penalties (under WCA 91.4) or provide incentives (under WCA 91.6);
  - advising the Minister of Labour on matters related to its mandate.
- Amend the *Workers' Compensation Act* to transfer administrative responsibility for health and safety education, the safety associations, and the Workers' Health and Safety Centre from the Board to the Agency.
  - The Agency to have power to review and evaluate workplace health and safety training programs.
  - The Advisory Council on Occupational Health and Occupational Safety to be abolished.

## 9. MISCELLANEOUS

- Amend the definition of "project" to include a ship under construction and/or repair on land or at a dock.
- Amend the definition of "constructor" to clarify that an owner does not become a constructor by undertaking responsibility for quality control of a project.
- Amend the definition section of the *Act* to define logging and logging operations to better reflect the current realities of the industry.



- Amend the *Act* to eliminate the need for mining development to be covered by regulations meant for construction projects.
- Amend Section 21 to eliminate the need for notification where new mixtures of old agents or chemicals are used in the workplace.
- Amend the *Act* to delete the provision which requires workers to participate in a medical surveillance program ordered by the Ministry.
- Place a duty on employers to pay all reasonable costs for workers' time, travel costs, medical examinations, tests and x-rays where a regulation or a Director's order requires such examinations.
- Prohibit the disclosure of records maintained by occupational health professionals and support staff, and to make it an offence for unauthorized parties to request confidential health information.

### ANNEX III

## SUMMARY OF PROVISIONS FOR JOINT HEALTH AND SAFETY COMMITTEES

These reforms to the *Occupational Health and Safety Act* would help to improve the ability of Joint Health and Safety Committees to function more effectively.

- Require joint health and safety committees where 20 or more workers are regularly employed;
- Require committee members be from the workplace concerned;
- Require joint committees on construction projects with a work force of 20 or more, where the project is of at least 3 months duration;
- Provide for the establishment of workers subcommittees to include all trades working on a construction project;
- Provide for substitution of worker representatives for committees in seasonal tourist operations as prescribed;
- Require worker representatives in all workplaces where more than 5 but less than 20 workers are employed;
- Increase general minimum committee size to 4 where 50 or more persons are employed;
- Require co-chairmanship of committee;
- Require minimum committee workplace inspection of once/month of at least part of the workplace;
- Require committee to determine paid preparation time but require a minimum of one hour per committee meeting;
- Extend to committee or worker representatives the right to:
  - be present at commencement of workplace health and safety tests;

- receive copies of all workplace health and safety monitoring reports.







Ontario  
Ministry of  
Labour

Ministère  
du Travail  
de l'Ontario

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January 24, 1989

## OCCUPATIONAL HEALTH AND SAFETY REFORM, 1989

### Questions and Answers



## I. GENERAL

### Q1. Why is the government making changes to the Act now?

The Act has been almost totally unchanged in its decade of existence. Circumstances have changed, and we have learned from experience.

The continuing levels of accidents, illness and fatalities at Ontario workplaces make it imperative that we introduce improvements to ensure greater health and safety in those workplaces.

At present we are losing some seven million days of production annually to accidents and illness. There were more than 300 fatalities last year and almost \$1.5 billion in Workers' Compensation Board (WCB) compensation payments. Clearly, we need to bring about real improvements.

### Q2. Why didn't the government simply re-introduce Bill 106?

Because further consultation during the last year with labour and management has convinced the government that the opportunity exists to capitalize on their ability to work together to advance health and safety further in this province.

In addition to many of the substantive improvements introduced in Bill 106, this new Bill provides for a significant re-structuring of the direction of health and safety training through the creation of the joint labour-management Workplace Health and Safety Agency.

This Bill provides for a standardized level of training in order to certify joint health and safety committee (JHSC) members. Those committee members who attain certification will have greater authority to control occupational risks in the workplace.

This Bill provides, for the first time, the requirements to have JHSCs and worker trades subcommittees on construction projects.

There is a new balance in this proposal. Bill 106 contained a provision that would have prohibited the substitution of a worker during a work refusal and would have guaranteed 75 per cent of wages throughout a work stoppage. This Bill guarantees 100 per cent of wages during the first stage of a work refusal and does not alter the existing provisions regarding substitution.

In summary, this Bill provides an integrated and collaborative approach in which labour and management are involved in developing and delivering the necessary training and education to an expanded number of workplace JHSCs. The Bill ensures that these workplace parties have rights and obligations commensurate with their new capability of significantly reducing the risk of occupational injury and illness in Ontario's workplaces.

**Q3. What is a joint health and safety committee?**

The JHSC is a labour-management group within the workplace, whose responsibility it is to promote the internal responsibility system for health and safety.

A JHSC is composed of at least one representative selected by workers and one selected by management to deal with health and safety issues in the workplace. The amendments require the size of the JHSC in a workplace with more than 50 employees to expand to a minimum of four persons.

In addition to inspecting the workplace, investigating work refusals and accidents and performing many other functions, the committee is expected to make recommendations to the employer for improving health and safety. The amendments require employers to respond to these recommendations in writing within 30 days of their receipt.

**Q4. Bill 106 provided for an independent office of investigations to probe complaints from workers who believed they had been subjected to reprisals for exercising their authority under the Act. Why has this been dropped?**

The capability of the ministry inspectorate has been significantly enhanced through increased numbers and additional training. After a year and a half of observing these improvements, we are convinced that the present system involving investigation by inspectors and providing workers access to the Ontario Labour Relations Board is working effectively and does not require an additional office.

**Q5. Why do the proposed amendments give powers to the minister to exempt workplaces from establishing JHSCs?**

The amendments will extend JHSCs to all non-agricultural workplaces with more than 20 employees, including previously exempt offices, retail establishments and many construction projects.



Nevertheless, situations may arise in which it will prove difficult or impossible to establish a JHSC because of the nature of the work or the particular workplace involved. Residential construction projects, for example, pose a unique problem for JHSCs because of the frequent turnover of various trades on the projects. It will be necessary for the Ministry of Labour to work closely with labour and management to develop an alternative approach to managing health and safety on such projects.

**Q6. Why is the maximum fine for corporations being increased to \$500,000?**

Relative to penalties for non-compliance with other regulatory legislation, the existing maximum fine of \$25,000 is too low. It does not reflect the value society places on its health and safety and it is not an effective deterrent to offenders. Workers and employers agree that there must be significant penalties for those who choose not to comply with health and safety requirements.

**Q7. Why is the government broadening the definition of the grounds upon which a worker may refuse to work?**

Under the existing legislation the right to refuse is related to any equipment, machine, device or thing used in the workplace or to the physical condition of the workplace itself.

While such a definition allows workers to protect themselves under most situations, it fails to recognize one of the major contributing factors to workplace risk, namely, 'work activities' such as lifting, etc. The proposed amendments will rectify this situation.

WCB claims involving back injuries alone accounted for over 26 per cent of all WCB claims in 1987.

## **II. THE AGENCY**

**Q1. Why is the government setting up the Workplace Health and Safety Agency?**

The Workplace Health and Safety Agency is being established to provide an organizational structure to facilitate the work of management and labour in their direction of training, consultative work, promotion and research support for the occupational health and safety system.

Employers and workers are often best positioned to determine their own training and education needs. The agency, an equal partnership of employers and workers, will develop the requisite criteria for the training and certification of JHSC members. This partnership is further empowered to develop and deliver general health and safety training to workers and employers.

**Q2. Will only organized labour be called upon to represent workers on the agency?**

By its very nature, the unorganized portion of the labour force is difficult to represent. We have yet to find an effective way to do so.

Organized labour has played an important role in bringing about improvements in health and safety standards and procedures. The views of both organized labour and organized employer communities will be sought when selecting the representatives to the agency's board of directors.

**Q3. How will the Workplace Health and Safety Agency alter the structure of the existing safety associations?**

Under the new system the safety associations will remain in place and retain their identity for at least a year.

The amendments require that within a year from proclamation of the Act these associations have equal worker and employer representation on their boards if they are to receive funding from the agency. Through the agency the associations will be given new duties to train and certify JHSC members.

The need for those working in a particular sector to be familiar with the specifics of that sector is recognized. A sector-specific approach to health and safety, as provided by the associations, will continue.

In order to achieve the best possible results in workplace health and safety, the agency will help to improve co-ordination of the associations' efforts.

**Q4. As safety associations are to be required to have equal labour and management representation on their boards, will employers continue to be the only source of funding for these bipartite associations?**

The responsibility for providing a safe working environment rests with those who create the environment -- the employers. This, like environmental protection, is a legitimate cost of doing business in Ontario.

Employers currently fund these activities through their WCB assessments and will continue to provide this source of funding. Employers should both recognize that this is a good investment and see labour as a partner in solving the costly problem of occupational accidents and illness.

This approach will improve the control of hazards in the workplace. When it is fully implemented there should be substantially fewer accidents and illnesses, which will result in reduced compensation costs, fewer lost days of work and greater productivity.

**Q5. How will the new agency be funded?**

Employers, through their WCB assessments, currently provide approximately \$46 million annually to the various safety associations and the Workers Health and Safety Centre.

An equal sum will be transferred from the WCB to the agency to carry out the part of its training, education, certification, promotion and consultative mandate that derives from existing activities of the above-mentioned associations.

Other funds to direct the activities of the occupational health clinics and to sponsor research will be transferred to the agency from the existing budget of the Occupational Health and Safety Division of the Ministry of Labour.

No new funds will be required.

**Q6 Will functions of the Ministry of Labour be given to the agency to administer?**

Responsibility and funding for occupational health and safety research and the occupational health clinics will be transferred from the Ministry of Labour to the agency. Current activities of the ministry in facilitating sector-based labour-management safety training programs will also be transferred. The Ministry of Labour will continue to be responsible for the enforcement and administration of the Occupational Health and Safety Act and its regulations.

The agency is required to report on its progress and provide recommendations for any changes within three years of proclamation of the legislation. A broader mandate for the agency, involving additional functions carried out by the ministry, is certainly a possibility once the agency has succeeded in implementing the considerable tasks in its initial mandate.



**Q7. Has any other jurisdiction introduced a comparable health and safety regime?**

Both Quebec and New Brunswick have established commissions similar to the agency outlined here. In Quebec the commission's very broad mandate includes the responsibilities carried out in Ontario by the WCB. The right to stop work is not directly paralleled in those jurisdictions, but other enforcement authority and the power to issue orders is held by those commissions.

Similar structures and procedures are found elsewhere, e.g. Scandinavia.

**III. RIGHT TO STOP WORK**

**Q1. In what circumstances will a certified member have the right to stop work?**

The right to stop work is granted to certified JHSC members only in order that dangerous work that should be stopped may be recognized and stopped before a worker is injured.

This authority is given in the context of a comprehensive process to internalize to the workplace the training, knowledge and capability to identify and reduce occupational hazards. Certified members will be trained in accordance with uniform specifications that will be set out by the agency.

Certified members may stop work that involves a contravention of the Act or regulations, poses a hazard to a worker and is such that any delay in controlling it will cause serious risk to a worker.

Ordinarily, certified members will note potential concerns and will be able to ensure that these concerns are addressed by the JHSC and the employer before they present serious risk.

When the employer and the certified member disagree on whether work should be stopped and are unable to resolve their differences, a Ministry of Labour inspector will be called in to investigate the matter and determine whether the stop work order should continue or work should resume.

If an employer believes that a certified JHSC member has used this authority improperly, the agency will review the actions of the member, and sanctions, including de-certification, may be applied, dependent upon the review findings.



Q2. Why don't health and safety representatives (who are found in workplaces employing five to 20 people) have the right to stop work?

The right to stop work is only being given in the context of a comprehensive process characterized by specialized training leading to certification and the existence of a JHSC in the workplace. These are difficult requirements for very small enterprises to accommodate and are not included in the Bill for this reason.

However, there are occupational risks in small workplaces, and that is why government is mandating the selection of workers to act as health and safety representatives in these establishments.

Q3. Why are you legislating certification of committee members?

A large part of our approach to health and safety is to improve the level of knowledge and awareness of those in the workplace. The introduction of certification of those who reach a designated level of skill provides the workplace parties with an important new resource to resolve health and safety concerns in their own workplaces. The certification process will ensure that individuals who have the power to stop work also have the necessary knowledge and judgement to exercise the responsibility.

This focus on training will help to provide the required background for those who assume the many important responsibilities of JHSC members.

Q4. How will the requirement for certification be implemented?

The Minister of Labour will require the agency to submit a plan that includes priorities and timetables for the development of criteria and the delivery of training for the certification of JHSC members.

It is envisioned that the agency will set its priorities for certification of JHSC members in various classes of workplaces on the basis of such considerations as existing level of training, degree of risk involved in the workplaces, etc.

The minister will use the plan of the agency to develop regulations to require certified JHSC members by a specified date whereupon every employer covered by the regulation will be required to have at least one management and one labour member of the JHSC certified.



This approach will allow the agency to plan its business in an orderly fashion and, at the same time, guarantee that workplaces will soon benefit from the presence of certified JHSC members.

The authority to stop work will take effect only when the certification training has been delivered and a regulation has been passed requiring employers to have certified members on their JHSCs.

#### IV. EXTENSION OF JHSCs

**Q1. Why has government extended the requirement for JHSCs to the construction industry?**

Even though the nature of the construction workplace is somewhat unique, the hazards that workers face in the construction industry are no less than those in many other sectors where JHSCs have proven to be effective in reducing accidents and illness. The added feature of the worker trades committee will ensure that the JHSC is fully apprised of employee concerns on the project and will make an important contribution to its effectiveness.

Low-rise residential construction represents a special case, which will be dealt with by regulations to be developed in full consultation with the affected labour and management communities.

**Q2. Will offices and retail establishments require JHSCs?**

Many previously exempted workplaces, such as offices and retail establishments, have voluntarily established JHSCs in recognition of their assistance in dealing with health and safety concerns unique to these workplaces. This Bill requires the establishment of JHSCs in all establishments with more than 20 employees upon proclamation of the Act. All establishments with more than five, and less than 20, employees will be required to have a health and safety representative.

Office and retail workplaces are not without health and safety risks. For example, back injuries and ailments which are common in such settings.



